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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/463,536 | 08/18/2000 | Jean Morelle | DEM-1 | 6455 |

7590 01/08/2002

Lucas & Just
60 East 42nd Street
New York, NY 10165

[REDACTED] EXAMINER

PRYOR, ALTON NATHANIEL

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 1616 | |

DATE MAILED: 01/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | | | | | | | | |
|--|--|--------------------------------------|---|--|---|---|---|--|--|---|
| Office Action Summary | Application No. 09/463,536 | Applicant(s) Morelle et al | | | | | | | | |
| | Examiner Alton Pryor | Art Unit 1616 |  | | | | | | | |
| -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -- | | | | | | | | | | |
| <p>Period for Reply</p> <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). | | | | | | | | | | |
| <p>Status</p> <p>1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Nov 28, 2001</u></p> <p>2a) <input checked="" type="checkbox"/> This action is FINAL. 2b) <input type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p> | | | | | | | | | | |
| <p>Disposition of Claims</p> <p>4) <input checked="" type="checkbox"/> Claim(s) <u>8-19</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6) <input checked="" type="checkbox"/> Claim(s) <u>8-19</u> is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.</p> | | | | | | | | | | |
| <p>Application Papers</p> <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are objected to by the Examiner.</p> <p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a)<input type="checkbox"/> approved b)<input type="checkbox"/> disapproved.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p> | | | | | | | | | | |
| <p>Priority under 35 U.S.C. § 119</p> <p>13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).</p> <p>a)<input type="checkbox"/> All b)<input type="checkbox"/> Some* c)<input type="checkbox"/> None of:</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). | | | | | | | | | | |
| <p>*See the attached detailed Office action for a list of the certified copies not received.</p> | | | | | | | | | | |
| <p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).</p> | | | | | | | | | | |
| <p>Attachment(s)</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding-right: 20px;">15) <input type="checkbox"/> Notice of References Cited (PTO-892)</td> <td>18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</td> </tr> <tr> <td>16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</td> <td>19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</td> </tr> <tr> <td>17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____</td> <td>20) <input type="checkbox"/> Other: _____</td> </tr> </table> | | | | | 15) <input type="checkbox"/> Notice of References Cited (PTO-892) | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ | 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) | 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | 20) <input type="checkbox"/> Other: _____ |
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| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) | | | | | | | | | |
| 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | 20) <input type="checkbox"/> Other: _____ | | | | | | | | | |

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I. Rejection of claims 8-13 under 35 U.S.C. 102(b) as being anticipated by Valentin will be maintained for reasons on record and reasons as follows. New claims 17-19 are added to this rejection.

Applicant's arguments filed 11/28/01 have been fully considered but they are not persuasive.

Applicant argues while the reference suggests the use of the instant method in agricultural applications, there is no teaching of the highly beneficial results obtained in accordance with the instant invention. Examiner argues that the results would have been the same for the prior art invention and instant invention since both inventions involve the application of metal lipoamino acids to crop.

II. Rejection of claims 8-14,16 under 35 U.S.C. 102(b) as being anticipated by DeMil will be maintained for reasons on record and reasons as follows. New claims 17,18 are added to this rejection.

Applicant argues that DeMil teaches nothing about increasing crop yields or protecting crops against viruses, microorganisms, and destructive animals. Examiner argues that is inherent that the prior art invention would have provided crop with increased yield and protection since prior art teaches a method of applying metal lipoamino acids to crop.

III. Rejection of claim 15 under 35 U.S.C. 103(a) as being obvious over DeMil will be maintained for reasons on record.

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III. Claim Rejection under 35 U.S.C. 112, 2nd paragraph

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: What object is the copper salt being applied to?

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton Pryor whose telephone number is (703) 308-4691. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-4628. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.



Alton Pryor

Primary Examiner, AU 1616

1/7/02